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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,943	12/29/2003	Neil Keegstra	1122-8	7887
23869	7590	06/30/2005	EXAMINER	
HOFFMANN & BARON, LLP 6900 JERICHO TURNPIKE SYOSSET, NY 11791			SEMUNEGUS, LULIT	
		ART UNIT	PAPER NUMBER	
		3641		
DATE MAILED: 06/30/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/748,943	KEEGSTRA ET AL.
	Examiner Lulit Semunegus	Art Unit 3641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 21 April 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-12 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Response to Arguments***

1. Applicant's arguments filed 4/21/2005 have been fully considered but they are not persuasive. Applicant argues that the Prior art reference Tougeron (5,565,649) does not disclose a projectile having a forward end with increased weight. Applicant's attention is directed to figure 6 wherein the projectile shows the forward end with increased weight. Applicant further argues that the forward end of the Tougeron is hollow. Again, figure 6 shows otherwise where the forward end is solid which makes the forward end heavier than the rearward cavity end (6). Examiner agrees with applicant's argument that Tougeron does not disclose a hollow base but the prior art reference Knoster, Jr. teaches just that. Applicant disagrees with examiner that Knoster does not disclose a projectile but teaches a component of a shotshell, which carries a projectile. Examiner disagrees with this wherein the component as a whole is considered a projectile, wherein a projectile is defined as a fired, thrown, or otherwise propelled object, such as a bullet or shotshells. As to applicant's argument that Knoster does not teach a dome shaped protruding member, examiner has previously cited several prior arts including Tougeron showing that a dome shaped projectile is well known in the art.

Applicant has overcome the rejections under Stevens (5,361,701) and the 112 rejection.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3641

A person shall be entitled to a patent unless – (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 3-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Tougeron et al (5,565,649). Tougeron teaches a less-lethal shot gun round comprising: a generally elongate tubular hull (3) having a forward end and an opposed rearward end (fig. 1); a base (4) enclosing said rearward end of said hull; a propellant (17) contained within said base; and a projectile slug (2, 62) carried in said hull, said slug being a generally cylindrical member having an outer cylindrical wall, said slug further including a head/protruding member, surrounded by a rim (65), at a forward end of said cylindrical member (col. 2, line 49) thereby increasing the weight of said slug at said forward end; said slug being formed of a non-metallic material (col.2, lines 63-65) inherently having a durometer hardness less than conventional (metal) shot gun slug materials.

4. Claims 1-8 and 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Knoster, Jr. (6,067,909). Knoster teaches a projectile (16) having a generally hollow cylindrical body (12) having forward end including said protruding member extending therefrom (36) which is dome shaped (fig. 2); a body being formed of a non-metallic material (fig. 7's cross-section showing section for synthetic resin or plastic according to Title 37) having inherently a durometer hardness less than conventional metallic rounds; a base (30) enclosing said rearward end; a propellant (50) contained within said base; a wad (32) sealably positioned in rear end; and a projectile slug (16), said slug being a generally cylindrical member having an outer cylindrical wall, said slug further including a head/protruding member (figures 1-5) at a forward end of said cylindrical member

thereby increasing the weight of said slug at said forward end; and includes a sabot (12) positioned between said wad and said slug.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tougeron et al (5,565,649) in view of Gibson et al (6,615,739). Tougeron teach all the limitations of claim 9 except the cylindrical wall is dimpled. Gibson et al teaches a slug with hollow cylindrical bore extending from the rearward end (fig. 1b) where the outer cylindrical wall is dimpled (fig. 8a). At the time of the invention, it would have been obvious to one ordinarily skilled in the art to have a dimpled cylindrical wall to promote accuracy and/or distance of the projectile/slug.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lulit Semunegus whose telephone number is (571) 272-6882. The examiner can normally be reached on Mon-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on (571) 272-6873. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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6/26/05

*Lulit Semunegus*  
Lulit Semunegus  
Examiner  
Art Unit 3641

*MICHAEL J. CARONE*  
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SUPERVISORY PATENT EXAMINER